

United States District Court
Northern District of California

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VITAL PHARMACEUTICALS, INC.*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ISMAIL IMRAN and ZACH HESS, on behalf of
themselves and all others similarly situated

Plaintiff,

vs.

VITAL PHARMACEUTICALS, INC.,
d/b/a VPX Sports, a Florida corporation,

Defendant.

KUUMBA MADISON,

Plaintiff,

vs.

VITAL PHARMACEUTICALS, INC., d/b/a
VPX Sports, a Florida corporation,

Defendant.

Case No. 3:18-cv-05758-JST
(Consolidated with 3:18-cv-06300)

**JOINT STATUS REPORT REGARDING
DISCOVERY**

Judge: Hon. Jon S. Tigar

Complaint filed: September 19, 2018
FAC filed: November 1, 2018

Case No. 3:18-cv-06300-JST

Complaint Filed: October 15, 2018

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1 Pursuant to the Parties' August 2, 2019 Joint Brief Regarding Discovery Disputes (Doc. No.
2 60), the Parties' hereby provide the following status update of their ongoing discussions regarding
3 coordination of discovery among the related cases against Defendant, Vital Pharmaceuticals, Inc.
4 ("Defendant" or "Vital").

5 In addition to the *Imran* and *Madison* actions, there are two parallel class actions against
6 Vital: *Shirley St. Fort- Nwabuku v. Vital Pharmaceuticals, Inc.*, No. 18-cv-62823 (S.D. Fla. Nov.
7 19, 2018) ("*St. Fort- Nwabuku*"); and *Nguyen v. Vital Pharmaceuticals, Inc.*, No. 19-cv-60261 (S.D.
8 Fla Jan. 30, 2019) ("*Nguyen*"). In each of the class actions, Vital seeks to bifurcate discovery
9 necessary for class certification to proceed first, followed by discovery related to the merits – such
10 as email discovery – if each class is certified and such discovery is proportional to the needs of those
11 cases.
12

13 There are two additional parallel cases pending against Vital from Vital's alleged
14 competitors: *Monster Energy Company v. Vital Pharmaceuticals, Inc., et al.*, No. 5:18-cv-1882
15 (C.D. Cal. Sept. 4, 2018) ("*Monster*"); and *ThermoLife Int'l LLC v. Vital Pharmaceuticals, Inc.*, No.
16 0:19-cv-61380 (S.D. Fla. Oct. 10, 2018) ("*ThermoLife*").
17

18 The Parties' have discussed that the discovery in many of these cases will likely overlap to
19 the extent the plaintiffs in the other cases seek the same documents or information as the Plaintiffs
20 in these proceedings. In addition to overlapping discovery in the *St. Fort-Nwabuku* and *Nguyen*
21 actions, discovery in the *Monster* and *ThermoLife* actions appear to have significant overlap with
22 the present matters although the *Monster* case has additional causes of action that are unrelated (and
23 there are additional lawsuits between Monster and Vital which may include additional discovery
24 unrelated to the class actions). While the *St. Fort-Nwabuku* and *Nguyen* and *Thermolife* actions are
25 still in the nascent stages of discovery, discovery in the *Monster* action is further progressed and the
26 parties in that action will be producing documents in the near future. Vital anticipates that the
27 discovery in the *Monster* case will include a large amount of email discovery related to competition
28

1 between those parties which may be unrelated to the causes of action brought in the class action
2 cases (including *Imran* and *Madison*) and unnecessary for class certification.

3 The Parties in the *Imran* and *Madison* actions have discussed coordinating overlapping
4 document production with the *Monster* action, and will make good faith efforts to do so in order to
5 prevent undue delay and burden on both Parties.

6 In addition, at the appropriate time, the Parties will make a good faith effort to coordinate
7 overlapping document production with the *St. Fort-Nwabuku* and *Nguyen* and *ThermoLife* actions,
8 in order to prevent undue delay and burden on both Parties.
9

10 The Parties in the *Imran* and *Madison* actions have agreed to make good faith efforts to
11 coordinate the depositions of fact and corporate witnesses with those in the related actions, where
12 overlapping. When possible, the times and places of these depositions will be coordinated to limit
13 the time and expense on each Party relating to those depositions. As previously indicated, counsel
14 for Plaintiffs in the *Imran* and *Madison* actions are willing and able to travel to Florida, where some
15 of these witnesses may be located, and where depositions in the related cases may also take place.
16

17 The Parties will continue to discuss coordination of discovery among all related cases as
18 each case progresses and where it is determined that discovery is overlapping. At the appropriate
19 time, the Parties will update the Court with any relevant information regarding this coordination.
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23 *Signatures on following pages*
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25
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27
28

Dated August 16, 2019

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